IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP NO. 16559 of 2006

DATE OF DECISION: 24.10.2006

Amarjeet Singh ....Petitioner.

Versus

State of Haryana and others ...Respondents.

CORAM: HON'BLE MR.JUSTICE J.S. KHEHAR
HON'BLE MR. JUSTICE S.D. ANAND

PRESENT: Mr. S.P.Singh, Advocate for the petitioner.

**J.S. Khehar, J.**

The petitioner was appointed as a Science Master in the Education Department of the State Government, initially on ad hoc basis, in 1988. His services were regularised in the year 1991.

On 18.8.2004 the petitioner was transferred to Government Senior Secondary School, Bakra Market, Ambala Cantt, on his own request. It is, therefore, apparent that the petitioner can have no grievance of the instant transfer. While the petitioner was posted at Senior Secondary School, Bakra Market, Ambala Cantt, he was placed under suspension by an order dated 28.7.2005 allegedly, at the behest of Shri Phool Chand Mulana, Education Minister, Haryana (respondent No.2). Aggrieved by the action of the respondents, in having placed him under

suspension, the petitioner approached this Court by filing CWP No.13191 of 2005. The aforesaid writ petition was disposed of by an order dated 10.2.2006. A perusal of the order passed in CWP No.13191 of 2005 reveals that this Court did not set aside the suspension order dated 28.7.2005. Rather it ordered the holding of an enquiry against the petitioner on the basis of the allegations levelled against him which had resulted in his being placed under suspension. While disposing of the aforesaid writ petition, this Court required the departmental proceedings to be completed within three months. And in case, the proceedings were not completed within three months, the suspension order dated 28.7.2005 would be deemed to have been revoked.

It is not a matter of dispute that no departmental enquiry was conducted against the petitioner, nor any finding of guilt was recorded against him within the time stipulated in the order dated 10.2.2006 (vide which CWP No.13191 of 2005 was disposed of).

Since the petitioner was not reinstated and his suspension order was not revoked in terms of the order passed in CWP No.13191 of 2005, he approached this Court by filing COCP No.755 of 2006, whereupon the order by which the petitioner was placed under suspension was revoked and the petitioner was ordered to be reinstated as Science Master in Senior Secondary School, Bakra Market, Ambala Cantt. It is the case of the petitioner that he submitted his joining report at the aforesaid school on 28.5.2006. Within 1½ months of his submitting his joining report, the petitioner was transferred to Government Senior Secondary School, Morni Hills, District Panchkula, by an order dated 5.1-.2006. The

order of transfer of the petitioner dated 5.10.2006 is subject matter of challenge at the hands of the petitioner.

The contention of the learned counsel for the petitioner is that the instant order of transfer of the petitioner is based on extraneous considerations and mala fides. It is alleged by the petitioner that extraneous considerations/mala fides in ordering his transfer from Ambala Cantt to Morni Hills are the same, as were alleged by the petitioner in CWP No.13191 of 2005. It is, therefore, the contention of the learned counsel for the petitioner that the impugned transfer order dated 5.10.2006 be set aside.

We have given our thoughtful consideration to the aforestated solitary contention of the learned counsel for the petitioner. It is, however, not possible for us to accept the same. Acceptance of the challenge at the hands of the petitioner to the impugned transfer order dated 5.10.2006 would, in sum and substance, result in concluding that the petitioner, on account of the allegations levelled in CWP No.13191 of 2005, can never be transferred in the future, and that, if he is transferred, the allegations levelled against the petitioner in CWP No.13191 of 2005, would be sufficient to set aside the same. Such a conclusion would be absurd. Undoubtedly, an employee can be transferred in administrative exigency It is not possible for us to conclude that the transfer of the petitioner is motivated or based on extraneous considerations, on account of the fact that District Ambala, in which the petitioner was posted prior to the issuance of the impugned transfer order and District Panchkula, to which the petitioner has now been posted, are adjoining districts.

For the reasons recorded above, we find no merit in the instant writ petition and the same is, accordingly, dismissed.

( J.S. Khehar )
Judge

( S.D. Anand )
Judge

October 24, 2006.
vig